

106TH CONGRESS  
2D SESSION

# S. 2310

To amend chapter 44 of title 18, United States Code, with respect to penalties for licensed firearms dealers.

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IN THE SENATE OF THE UNITED STATES

MARCH 29, 2000

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend chapter 44 of title 18, United States Code, with respect to penalties for licensed firearms dealers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Firearms Dealer Pen-  
5       alty Flexibility Act of 2000”.

6       **SEC. 2. SUSPENSION OF FIREARMS DEALER’S LICENSE AND**  
7       **CIVIL PENALTIES.**

8       Section 923 of title 18, United States Code, is  
9       amended by striking subsections (e) and (f) and inserting  
10      the following:

1       “(e) REVOCATION OR SUSPENSION OF LICENSE;  
2 CIVIL PENALTIES.—

3               “(1) WILLFUL VIOLATIONS.—The Secretary  
4 may, after notice and opportunity for hearing, sus-  
5 pend or revoke any license issued under this section,  
6 or may subject the licensee to a civil penalty of not  
7 more than \$10,000 per violation, if the holder of  
8 such license has willfully violated any provision of  
9 this chapter or any rule or regulation prescribed by  
10 the Secretary under this chapter.

11              “(2) TRANSFER OF ARMOR PIERCING AMMUNI-  
12 TION.—The Secretary may, after notice and oppor-  
13 tunity for hearing, suspend or revoke the license of,  
14 or assess a civil penalty of not more than \$10,000  
15 on, a dealer who willfully transfers armor piercing  
16 ammunition.

17              “(3) COMPROMISE, MITIGATION, OR REMIT-  
18 TANCE OF LIABILITY.—The Secretary may at any  
19 time compromise, mitigate, or remit the liability with  
20 respect to any willful violation of this chapter or any  
21 rule or regulation prescribed by the Secretary under  
22 this chapter.

23              “(4) REVIEW.—An action of the Secretary  
24 under this subsection may be reviewed only as pro-  
25 vided in subsection (f).

1 “(f) RIGHTS OF APPLICANTS AND LICENSEES.—

2 “(1) IN GENERAL.—If the Secretary denies an  
3 application for a license, or revokes or suspends a li-  
4 cense, or assesses a civil penalty under this section,  
5 the Secretary shall provide written notice of such de-  
6 nial, revocation, suspension, or assessment to the af-  
7 fected party, which notice shall—

8 “(A) state specifically the grounds upon  
9 which the application was denied or upon which  
10 the license was suspended or revoked or the  
11 civil penalty assessed, as applicable; and

12 “(B) with respect to a notice of a revoca-  
13 tion or suspension of a license, be given to the  
14 holder of such license before the effective date  
15 of the revocation or suspension, as applicable.

16 “(2) APPEAL PROCESS.—

17 “(A) HEARING.—If the Secretary denies  
18 an application for, or revokes or suspends a li-  
19 cense, or assesses a civil penalty under this sec-  
20 tion, the Secretary shall, upon request of the  
21 aggrieved party, promptly hold a hearing to re-  
22 view the denial, revocation, suspension, or as-  
23 sessment. A hearing under this subparagraph  
24 shall be held at a location convenient to the ag-  
25 grieved party.

1 “(B) NOTICE OF DECISION; APPEAL.—If,  
2 after a hearing held under subparagraph (A),  
3 the Secretary decides not to reverse the decision  
4 of the Secretary to deny the application, revoke  
5 or suspend the license, or assess the civil pen-  
6 alty, as applicable—

7 “(i) the Secretary shall provide notice  
8 of the decision of the Secretary to the ag-  
9 grievied party;

10 “(ii) during the 60-day period begin-  
11 ning on the date on which the aggrieved  
12 party receives a notice under clause (i), the  
13 aggrieved party may file a petition with the  
14 district court of the United States for the  
15 judicial district in which the aggrieved  
16 party resides or has a principal place of  
17 business for a de novo judicial review of  
18 such denial, revocation, suspension, or as-  
19 sessment; and

20 “(iii) in any judicial proceeding pursu-  
21 ant to a petition under clause (ii)—

22 “(I) the court may consider any  
23 evidence submitted by the parties to  
24 the proceeding, regardless of whether  
25 or not such evidence was considered

1 at the hearing held under subpara-  
 2 graph (A); and

3 “(II) if the court decides that the  
 4 Secretary was not authorized to make  
 5 such denial, revocation, suspension, or  
 6 assessment, the court shall order the  
 7 Secretary to take such actions as may  
 8 be necessary to comply with the judg-  
 9 ment of the court.

10 “(C) STAY PENDING APPEAL.—If the Sec-  
 11 retary suspends or revokes a license or assesses  
 12 a civil penalty under this section, upon the re-  
 13 quest of the holder of the license, the Secretary  
 14 shall stay the effective date of the revocation,  
 15 suspension, or assessment pending an appeal  
 16 under this paragraph.”.

17 **SEC. 3. TERMINATION OF FIREARMS DEALER’S LICENSE**  
 18 **UPON FELONY CONVICTION.**

19 Section 925(b) of title 18, United States Code, is  
 20 amended by striking “until any conviction pursuant to the  
 21 indictment becomes final” and inserting “until the date  
 22 of any conviction pursuant to the indictment”.

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